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International Covenant on Civil and Political Rights

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Human Rights Committee

Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2419/2014*,**

Communication submitted by	S.A.H.
Alleged victim	The author
State party	Denmark
Date of communication	5 June 2014 (initial submission)
Document references	Decision taken pursuant to rule 97 of the Committee's rules of procedure, transmitted to the State party on 6 June 2014 (not issued in document form)
Date of adoption of Views	8 November 2017
Subject matter	Deportation to Afghanistan
Procedural issues	Substantiation of claims and inadmissibility
Substantive issues	Expulsion of aliens; risk of irreparable harm in country of origin; right to life; prohibition of torture or cruel, inhuman or degrading treatment; expulsion of non-citizen; right to equal protection of the law
Articles of the Covenant	6, 7, 13 and 26
Article of the Optional Protocol	2 and 3

1.1 The author of the communication is S.A.H., an Afghan citizen born on 6 February 1987. The author claims that, by forcibly deporting him to Afghanistan, Denmark would violate his rights under articles 6, 7, 13 and 26 of the International Covenant on Civil and Political Rights. The author was represented by counsel until 6 October 2017. The Optional Protocol entered into force for Denmark on 23 March 1976.

1.2 On 6 June 2014, pursuant to rule 92 of its rules of procedure, the Committee, acting through its Special Rapporteur on new communications and interim measures, requested the State party not to deport the author to Afghanistan while his case was under consideration by the Committee. On 10 June 2014, the Refugee Appeals Board suspended

* Adopted by the Committee at its 121st session (16 October–10 November 2017).

** The following members of the Committee participated in the examination of the present communication: Yadh Ben Achour, Ilze Brands Kehris, Sarah Cleveland, Olivier de Frouville, Christof Heyns, Yuji Iwasawa, Ivana Jelic, Bamariam Koita, Marcia V.J. Kran, Photini Pazartzis, Mauro Politi, Jose Manuel Santos Pais, Yuval Shany and Margo Waterval.

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the author's deportation from the State party until further notice, in compliance with the Committee's request.

1.3 On 28 January 2015, the Committee, acting through the Special Rapporteur, denied the State party's request to lift the interim measures request.

Factual background

2.1 The author was born in Taloqan in the Takhar Province of Afghanistan. He claims that he is an ethic Qizilbash and that he professed a Muslim faith for several years. He attended school for five years but has limited reading and writing skills. He further submits that, in 1999, his father, who had been a medical doctor, was killed in Afghanistan by a local commander named A.M.B. However, it was unclear whether the killing had been intentional. As a result, he had to leave school and started working to provide for his mother and brother.

2.2 The author worked as a car mechanic at a repair shop, where, on 1 September 2009, A.M.B.'s driver came with the commander's car. While the author was repairing the car, an accident occurred that caused the driver's death. Fearing that the incident would be perceived as revenge for his father's death, and fearing for his life, the author fled to Kabul with his younger brother and stayed there with a cousin. The day after they arrived, the author's brother went to buy food and, according to witnesses, was kidnapped by unknown persons. The author has not seen him since. The author therefore decided to travel to Herat, Afghanistan, and then to the Islamic Republic of Iran, where he stayed for about two years. He worked there in a shop in an area populated by Afghan refugees. During that period, he was informed by an Afghan neighbour that the commander's men were looking for him in Afghanistan and the Islamic Republic of Iran and that they had visited his mother's house.

2.3 The author decided to flee to Europe. He travelled through five countries and, in December 2011, he entered Denmark and applied for asylum. He claimed that his life was at risk in Afghanistan since, if he went back there, he would be persecuted by A.M.B.'s men. The author was held at the Ellebaek institution for detained asylum seekers.[1]

2.4 On 2 January and 20 March 2012, the Danish Immigration Service interviewed the author concerning his asylum request. He stated that his father had died when he was accidentally shot in an armed clash between the forces of two commanders. At the end of the second interview, the author stated that he was prepared to change religion to avoid returning to Afghanistan.[2]

2.5 On 30 March 2012, the Danish Immigration Service dismissed the author's asylum request. The author appealed the decision to the Refugee Appeals Board.

2.6 On 3 December 2012, the Refugee Appeals Board refused the author's asylum claim for lack of credibility. It noted that the author had not been a member of any political or religious association, and had not been politically active. Furthermore, the Board pointed to specific contradicting and inconsistent statements made by the author during the interviews with the Danish Immigration Service and the Board concerning his father's death, the alleged incident with the commander's driver, his brother's disappearance and the attempts by the commander's men to look for him by visiting his relatives in Afghanistan. Notably, the author stated during the Board hearings that his father had been killed in a clash between the forces of two commanders and that, consequently, the death of A.M.B's driver could be perceived as an act of revenge by the author. When asked how he knew which of the two sides had killed his father, he replied that people knew which side had shot whom. Likewise, the Board noted that the author had replied evasively to its question about what exactly had happened in the alleged accident at the repair shop. Against that background, the Board considered that the author's statements had seemed fabricated for the occasion.

[1] The full title of the centre is the Ellebaek (formerly Sandholm) prison and probation establishment for asylum seekers and others deprived of their liberty.

[2] According to the summary of the Danish Immigration Service interview, as presented in the Refugee Appeals Board decision dated 3 December 2012.

2.7 In 2012 and 2013, the author was hospitalized several times after attempting suicide. In 2013, he started attending services at the Kronborg church centre and was baptized on 16 June 2013.[3] Subsequently, the author left Denmark and sought asylum in the Netherlands, where he submits he also participated in church activities. On 8 April 2014, the Dutch authorities transferred the author back to Denmark in accordance with the Dublin Regulations.

2.8 On 1 May 2014, the author, represented by the Danish Refugee Council, requested that his asylum case be reopened. He argued, inter alia, that new information had come to light concerning his situation in Afghanistan. The request included three documents that had reportedly been received by the author's neighbours living in Afghanistan, who sent them to the author on behalf of his mother. His request also referred to his conversion from Islam to Christianity. It included that the author had started taking an interest in Christianity when he had come to Denmark, that he had been a regular churchgoer, that he had also attended services at the Iranian church in the Netherlands, that video clips of those services held in the Dari language had been made available on YouTube, that he had told his family and friends in Afghanistan about changing his faith and that he could not be expected to conceal his conversion in order to avoid persecution in Afghanistan. The author enclosed a certificate of baptism dated 16 June 2013 and three letters prepared by M.C., a pastor of the Kronborg church centre, indicating that the author had attended church services and other activities from 3 March to 7 July 2013 and that the church considered him to be a sincere believer.

2.9 On 15 May 2014, the priest at the Ellebaek asylum centre, P.B., informed the author's counsel that the author had been harassed by Muslim detainees owing to his Christian faith.[4] Counsel brought that information to the attention of the Refugee Appeals Board.

2.10 On 2 June 2014, the Refugee Appeals Board decided not to reopen the case on the grounds that there was no significant new information. The Board referred to its decision of 3 December 2012 and noted that the three documents reportedly received by the author from Afghanistan appeared to have been fabricated. The Board contested that, although two of the documents were dated from more than three years before the 3 December 2012 hearing, the author had neither submitted them at that time nor explained why they had not been submitted at an earlier date. Moreover, according to the background material available, forged documents were widely used and easy to obtain in Afghanistan.

2.11 The Refugee Appeals Board did not find the author's conversion genuine since, during the initial asylum procedure, he had confirmed that he was Muslim and had not shown any interest in Christianity. Moreover, when interviewed on 20 March 2012, the author had stated that he was an ethnic Qizilbash of Shia Muslim faith and that that group was unable to practise its religion freely. When interviewed by the Danish Immigration Service, he had stated that he was prepared to change his religion to avoid returning to Afghanistan. The Board also took note of one of the letters prepared by M.C. and highlighted that the information about the author's conversion was obtained only a few days before his scheduled deportation to Afghanistan and that he had not provided any proof to support his statements that the Iranian church services in the Netherlands at which he had participated had been recorded and uploaded to the Internet.

2.12 The author submits that he has exhausted all available and effective domestic remedies.

The complaint

3.1 The author claims that his deportation to Afghanistan by the State party would constitute a violation of his rights under articles 6, 7, 13 and 26 of the Covenant. In Afghanistan, he claims his life would be at risk or that he would risk being subjected to inhuman or degrading treatment or punishment, owing to his situation as a young man of

[3] The author provides a copy of a certificate of baptism dated 16 June 2013.

[4] The author provides a copy of a translation of the email sent by P.B. to his counsel.

fighting age and as a member of an ethnic and religious minority, and owing to his conversion to Christianity.[5]

3.2 With regard to article 26 of the Covenant, the author claims that other asylum seekers in a similar situation — who had converted to Christianity after the Refugee Appeals Board had dismissed their initial asylum request — have been granted international protection. The fact that he only converted after the first negative decision of the Board cannot be used as proof that his religious conviction is not genuine. In addition, he is prevented from bringing his case before a court, as under Danish law the decisions of the Board are final and cannot be appealed. Furthermore, his latest asylum appeal has been made on the grounds of his conversion to Christianity and has never been considered by the Danish Immigration Service.

State party's observations on admissibility and merits

4.1 On 8 December 2014, the State party submitted its observations on admissibility and merits. It maintains that the communication is inadmissible as manifestly ill-founded. With regard to the claims under articles 6 and 7 of the Covenant, it has been established neither that there are substantial grounds for believing that the author is in danger of being deprived of his life or being subjected to torture or to other cruel, inhuman or degrading treatment or punishment if returned to Afghanistan, nor that articles 13 or 26 of the Covenant have been violated in connection with the procedure to reopen the author's asylum case, which has been examined by the Danish authorities.

4.2 Should the Committee find the author's communication admissible, the State party submits that the author has not sufficiently established that his rights under articles 6 or 7 of the Covenant would be violated if he were returned to Afghanistan or that articles 13 or 26 have been violated in the present case.

4.3 The State party provides a detailed description of the asylum proceedings under the Aliens Act of Denmark and of the organization and competence of the Refugee Appeals Board.[6] It recalls that the decisions of the Board are based on an individual and specific assessment of the relevant case and that the statements made by an individual regarding his or her grounds for seeking asylum are assessed in the light of all relevant evidence, including what is known about conditions in the country of origin. The Board is responsible not only for examining and bringing to light information on the specific facts of the case, but also for providing the necessary background material, including information on the situation in the asylum seeker's country of origin or first country of asylum.[7]

4.4 The decision of 25 June 2014 to refuse to reopen the author's asylum proceedings was made by the Refugee Appeals Board, represented by the judge who had chaired the specific board that had made the original decision in the author's case, in accordance with section 53 (10) and (11) of the Aliens Act and section 48 of the Board's rules of procedure. The Board found itself unable to rely on the three additional documents provided by the author as, in view of their nature and the timing of their production, they had seemed fabricated for the purpose (see paragraph 2.10 above). Moreover, according to the State party, forged documents are widely used and easy to obtain in Afghanistan.[8]

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[5] The author refers to a memorandum dated 6 August 2013 by the UNHCR Director of International Protection, in which he informed all UNHCR Directors about the 2013 UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Afghanistan and its main recommendations (document available in the case file). He also refers to a letter dated 1 May 2012 from the UNHCR Acting Senior Regional Legal Officer, Regional Office for the Baltic and Nordic Countries, relating to the failed asylum case of an Afghan who had converted to Christianity, which provides a summary of the position of UNHCR regarding, inter alia, the credibility of the convert, the conversion after departure and the future behaviour of the convert to avoid persecution (document available in the case file).

[6] See communication No. 2379/2014, *Obah Hussein Ahmed v. Denmark*, Views adopted on 7 July 2016, paras. 4.1-4.3.

[7] The State party refers to the information available from www.fln.dk/da/baggrundsmateriale.

[8] The State party refers to the report dated May 2012 of the fact-finding mission of the Danish Immigration Service to Kabul, entitled "Country of Origin Information for Use in the Asylum

4.5 Furthermore, the Refugee Appeals Board could not accept as fact that the author had converted from Islam to Christianity (see paragraph 2.11 above). The State party points out that the author was baptized on 16 June 2013. Nevertheless, he only informed the migration authorities of his conversion when he faced imminent deportation in May 2014, despite the fact that he had received documentation and confirmation of his church attendance and baptism on 7 July 2013.

4.6 The author's submission about his attendance at Iranian church services when he was an asylum seeker in the Netherlands, which were allegedly recorded and uploaded to YouTube, were not supported by evidence. Furthermore, the author provided no information indicating that he had been particularly exposed as a convert through the recordings.

4.7 The author's allegations that he had been harassed by Afghan Muslim inmates in the Ellebaek asylum centre and that they would persecute him in Afghanistan cannot lead to a revised assessment of the case, especially since his conversion to Christianity is not considered genuine. Moreover, the allegations are not supported by any evidence. The State party notes that, according to the Office of the United Nations High Commissioner for Refugees (UNHCR), so-called "self-serving" activities do not create a well-founded fear of persecution in the claimant's country of origin if the opportunistic nature of such activities would be apparent to all, including the authorities there. Consequently, serious adverse consequences would not result if the person were returned.[9]

4.8 In the light of the above, on 2 June 2014, when making its assessment, the Refugee Appeals Board found that it could not be accepted as a fact that the author had made a genuine conversion from Islam to Christianity and that therefore the author had failed to substantiate that he would face a risk of persecution if deported to Afghanistan. Accordingly, the Board also found no basis for reopening the proceedings for reconsideration of the case.

4.9 The State party further maintains that the fact that the author is a young man of Qizilbash ethnicity from Taloqan cannot in itself justify his eligibility for international protection. It does not appear from the 2013 UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Afghanistan that persons of Qizilbash ethnicity are a particularly persecuted group or otherwise at a special risk of persecution because of their ethnicity. During the asylum procedure, the author had stated that he had never been involved in politics and that neither he nor his family had ever had problems with the authorities. Thus, the author would not risk any circumstances contrary to articles 6 or 7 of the Covenant upon return to Afghanistan.

4.10 Article 13 of the Covenant does not confer a right to a court hearing. In its decision of 2 June 2014, the Refugee Appeals Board, acting through the judge who chaired the specific board that had made the original decision in the author's case, considered all the information submitted by the autnor in his request to have his asylum procedure reopened, including information related to his reported conversion to Christianity. Article 13 has therefore not been violated in the present case.

4.11 The author has been treated no differently than any other person applying for asylum in terms of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The refusal to reopen the asylum proceedings does not in itself constitute discrimination. The author's request to have his case reopened was considered by the competent authority, and the refusal to reopen the case was well-founded and in accordance with the case law of the Board. Therefore, the author's claims under article 26 of the Covenant are not substantiated.

Determination Process", available from www.nyidanmark.dk/NR/rdonlyres/3FD55632-770B-48B6-935C-827E83C18AD8/0/FFMrapportenAFGHANISTAN2012Final.pdf.

[9] The State party refers to the UNHCR document dated 28 April 2004, entitled "Guidelines on International Protection: religion-based refugee claims under article 1 A (2) of the 1951 Convention and Convention and/or the 1967 Protocol relating to the Status of Refugees", paras. 34 and 36. Available from www.unhcr.org/afr/40d8427a4.pdf.

Author's comments on the State party's observations

5.1 On 19 January and 13 April 2015, the author submitted his comments on the State party's observations. He argues that he attends church on a weekly basis[10] and that as a result of his conversion he has been harassed by inmates at the Ellebaek asylum centre.

5.2 With regard to his claims under articles 13 and 26, the author submits he has had no opportunity to challenge the decision of the Refugee Appeals Board before a court. This is in violation of basic principles of the rule of law and discriminatory since no other persons than asylum seekers are denied the right to appeal against a decision of the Board. Moreover, the issue of conversion was never assessed by the Danish Immigration Service.

5.3 The author submits that, because he was in great personal pain in 2013, he opened up his mind to receive help from another source. That process is well known among converts, and consequently his spiritual transformation happened during that year at the Kronborg church, where he was also baptized. He now considers himself Christian and lives openly as such. He practises his faith while in detention and would continue to practise his faith even if returned to Afghanistan. Therefore, if deported, he would be persecuted in his country of origin. He claims that, since he has lived in the West for many years, he risks being perceived as conducting himself in ways that are contrary to Islamic rules and as being supportive of the international community. He also claims that that the security situation in Afghanistan has worsened, that the Afghan authorities are unable to protect citizens[11] and that persecution of non-Muslim believers takes place even in Kabul. Consequently, if returned to Afghanistan, his life would be at risk and he would risk being subjected to severe ill-treatment.

Additional information

From the State party

6.1 On 17 May 2016, the State party informed the Committee that, on 13 May 2016, the Refugee Appeals Board ex officio decided to reopen the author's case for consideration at an oral hearing before a new panel.

6.2 On 6 and 14 September 2016, the author submitted to the Refugee Appeals Board written briefs in the case. At the hearing before the Board, the author submitted, inter alia, that in Afghanistan he would be considered an apostate and a non-believer; that he might be at risk of being killed; that he had converted to Christianity because he had originally been a Shia Muslim; that, where he came from, Shia Muslims were considered bad persons and not real Muslims; and that, at the original hearing with the Board, he had not disclosed his interest in Christianity because he had not been asked about it. He also denied having stated in the interview with the Danish Immigration Service that he would rather change religion to avoid returning to Afghanistan. The author further stated that, in the Ellebaek asylum centre, he had been harassed by some Muslim Afghans, which is why he had subsequently been transferred to another accommodation centre, where he had also been subjected to harassment; that in Denmark many Afghans who had learned about his conversion to Christianity were against it; that some of those Afghans had been returned to Afghanistan; that he had also told a friend in Afghanistan about his conversion; and that people in Afghanistan were therefore aware of his conversion.

[10] The author provides copies of a letter dated 21 June 2014 from the priest of the Kronborg church, and two letters dated 23 June and 17 July 2014 from the priest of Persian Church Cyrus, in which it is stated that the author had attended church services in the Netherlands and had participated in Bible studies in the refugee detention centre in Rotterdam. The author also submits a letter dated 14 January 2014 from the pastor of the St. Nicolai Church, stating that the author had attended worship services since 5 October 2014 and had participated in other church activities. The pastor notes that it was his impression that the author had a genuine commitment to the life and worship of the Christian church, and that it had been brought to his knowledge that the author had been harassed by Muslim inmates in the asylum centre.

[11] The author refers to an article dated 21 February 2015, available from https://kabulblogs.wordpress.com/2015/02/21/afghan-minister-for-refugees-and-repatriation-stop-deportation-to-afghanistan/.

6.3 On 15 September 2016, the Refugee Appeals Board upheld its refusal to reopen the author's asylum request since it had found by majority that his conversion was not genuine. The Board noted, inter alia, that the author had acquired knowledge of Christianity that was not insignificant, but that he had only started to become better acquainted with Christianity in March 2013, after his claim for asylum had been refused; that his familiarity with Christianity had been limited when he was baptized in June 2013; and that his explanations as to the motives for converting had been evasive and formulated in general terms. In that connection, the Board considered that, in view of the significance of Islam in Afghan society, if his conversion had been genuine, it seemed unlikely that the author would have such general and superficial explanation about the reasons that had motivated him to convert. The Board also found it improbably that, merely by virtue of his appearance among many others in a video from an Iranian church in the Netherlands uploaded to YouTube, or because other Afghan asylum seekers in Denmark had learned of his conversion, that the author would risk persecution or serious abuse in case of his return to Afghanistan, and that his statement that a friend on Facebook in Afghanistan had been informed of the conversion could not lead to a different conclusion.

From the author

7. On 23 September 2016, the author submitted that he had unsuccessfully requested that his case be remitted to the Danish Immigration Service, since his conversion to Christianity was a new asylum motive, which had not been examined at first instance. The Refugee Appeals Board had also rejected without providing any explanation his request to present a witness at the hearing. Likewise, it had rejected his request that the Danish Ministry of Foreign Affairs conduct an investigation to determine if the documents provided in support of his initial asylum procedure were genuine.

From the State party

8.1 On 24 October 2016, the State party referred to the decision of the Refugee Appeals Board of 15 September 2016 and reiterated its observations on admissibility and the merits of the communication.

8.2 With regard to the author's claims under article 13, the State party maintains that, in cases decided by the Danish Immigration Service or the Refugee Appeals Board in which the asylum seeker claims that essential new information has come to light, the Board will make an assessment of whether this new information may result in a different decision. The Board may remit the case to the Service for re-examination. In the case at hand, the panel examining the author's case at the Board hearing on 15 September 2016 had been different from the one that had considered the initial asylum request. The fact that the Board had not made an explicit reference in its decision of 15 September 2016 to its finding that the case should not be remitted to the Danish Immigration Service for re-examination at first instance could not be taken to mean that the Board had failed to consider a potential remission of the case.

8.3 The author had asked for permission to present a missionary, T.H., whom the author had met in a church context, as a witness at the hearing before the Refugee Appeals Board. The Board considered that the witness would only give evidence to substantiate the asylum seeker's general credibility as to whether his conversion was genuine or not. For that reason, and considering the fact that the author had already produced extensive testimonies from pastors and other persons whom he had met in a church context, the Board found that it had not been relevant to call the missionary. Moreover, in its decision of 15 September 2016, the Board had considered as a fact some of the author's statements concerning his participation in the church and his knowledge about Christianity (see paragraph 6.3 above). The refusal by the Board to accept the witness had been made in accordance with the second sentence of section 54 (1) of the Aliens Act and the Board's case law.

8.4 Concerning the author's request to assess the authenticity of the documents produced by him concerning his initial asylum claim, the State party notes that the decision of the Refugee Appeals Board had been based on overall assessment of, inter alia, the nature and contents of the documents in conjunction with the prospect of whether such verification could lead to a different assessment of the evidence, the timing and

circumstances of the submission of the documents and the credibility of the asylum seeker's statements in the light of the general background information available on conditions in the country. The Board observed that the contents of a document were not necessarily true even though the document was genuine.[12]

8.5 The State party reiterates that the author's claim that his rights under article 26 of the Covenant have been violated because he cannot appeal the decisions of the Refugee Appeals Board before courts, is manifestly unsubstantiated. The author has been treated no differently than any other person applying for asylum. Pursuant to section 56 (8) of the Aliens Act, the decisions of the Board are final and cannot be appealed. By virtue of the Danish Constitution, aliens may, however, bring an appeal before the ordinary courts, which have the authority to adjudicate any matter concerning the limits to the competence of a public authority.

From the author

9. On 10 July 2017, the author reiterated his allegations and pointed out that the decision of the Refugee Appeals Board of 15 September 2016 had not included any issue related to his request to present a witness at his hearing, and did not explain why the case had not been referred to the Danish Immigration Service.

Issues and proceedings before the Committee

Consideration of admissibility

10.1 Before considering any claims contained in a communication, the Committee must decide, in accordance with rule 93 of its rules of procedure, whether it is admissible under the Optional Protocol to the Covenant.

10.2 The Committee has ascertained, as required under article 5 (2) (a) of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement.

10.3 The Committee takes note of the author's assertion that domestic remedies have been exhausted. In the absence of any objection by the State party in that connection, the Committee considers that the requirements of article 5 (2) (b), of the Optional Protocol have been met.

10.4 The Committee takes notes of the author's claims under articles 13 and 26 of the Covenant that he requested unsuccessfully that the Refugee Appeals Board remit his case to the Danish Immigration Service since his conversion to Christianity was a new asylum motive; and that the Board, without providing any explanation, also rejected his requests to present a witness at the hearing and to carry out an investigation to determine if the documents provided in support of his initial asylum procedure were false. The author further claims that Danish law does not allow the Board's decisions to be appealed before courts, which he considers discriminatory. The Committee also takes note of the State party's arguments that the author's asylum proceedings, including his request that his case be reopened, were conducted in conformity with Danish law; that the author had been able to submit evidence and clarify his statements in the original asylum procedure and after the case had been reopened by the Board; that, in the light of the information already submitted by the author and the circumstances of the case, the Board had not granted the author's request to present T.H. as witness and to request that the Ministry of Foreign Affairs carry out an investigation as to the authenticity of some documents submitted by him (see paragraphs 8.3-8.4 above); that the Board is an independent, expert board of a quasi-judicial nature, whose Chair is a judge, and that it is under the obligation to bring out the facts and make objectively correct decisions. The Committee further notes the State party's argument that the author had been treated no differently than any other person applying for asylum.

[12] The State party refers to Country of Origin Information (footnote 17 above), pp. 50-51.

10.5 The Committee observes that the author had the opportunity to submit and challenge evidence concerning his removal and had his asylum application examined by the Danish Immigration Service and reviewed by two different panels of the Refugee Appeals Board, and by the Chair of the Board, who inter alia examined the new evidence submitted by the author. The Committee also recalls its jurisprudence that article 13 of the Covenant offers some of the protection afforded under article 14 of the Covenant, but not the right of appeal to courts.[13] Accordingly, the author's claim regarding the absence of appeal against the Board's decisions is therefore inadmissible *ratione materiae* under article 3 of the Optional Protocol.

10.6 The Committee also considers that the author has not sufficiently substantiated his claims concerning the procedure before the Refugee Appeals Board, under articles 13 and 26 of the Covenant for purposes of admissibility and that this part of the communication must therefore be declared inadmissible in accordance with article 2 of the Optional Protocol.

10.7 The Committee notes the State party's argument that the author's claims with respect to articles 6 and 7 of the Covenant should be held inadmissible owing to insufficient substantiation. The Committee however considers that the author has sufficiently substantiated his claims for the purposes of admissibility. Accordingly, the Committee declares the communication admissible as it may raise issues relating to articles 6 and 7 of the Covenant and proceeds to its examination on the merits.

Consideration of the merits

11.1 The Human Rights Committee has considered the present communication in the light of all the information made available to it by the parties, in accordance with article 5 (1) of the Optional Protocol.

11.2 The Committee recalls paragraph 12 its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, in which it refers to the obligation of States parties not to extradite, deport, expel or otherwise remove a person from their territory where there are substantial grounds for believing that there is a real risk of irreparable harm such as that contemplated by articles 6 and 7 of the Covenant. The Committee has also indicated that the risk must be personal[14] and that there is a high threshold for providing substantial grounds to establish that a real risk of irreparable harm exists. In making that assessment, all relevant facts and circumstances must be considered, including the general human rights situation in the author's country of origin.[15]

11.3 The Committee recalls its jurisprudence that considerable weight should be given to the assessment conducted by the State party and that it is generally for the organs of States parties to the Covenant to review or evaluate facts and evidence in order to determine whether such a risk exists, unless it is found that the evaluation was clearly arbitrary or amounted to a manifest error or a denial of justice.[16]

11.4 The Committee notes the author's submission that he would face a real risk of being subjected to a treatment contrary to articles 6 and 7 if deported to Afghanistan since he would be persecuted by A.M.B. in relation to the death of his driver. The Committee notes the State party's argument that all the evidence related to that claim was assessed by the Danish Immigration Service and then the Refugee Appeals Board. Subsequently, the Chair

[13] See the general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, para. 62. See also communication No. 2291/2013, *A and B v. Denmark*, Views adopted on 13 July 2016, para 7.3.

[14] See for example communications No. 2007/2010, *X. v. Denmark*, Views adopted on 26 March 2014, para. 9.2; No. 282/2005, *S.P.A. v. Canada*, decision adopted on 7 November 2006; No. 333/2007, *T.I. v. Canada*, decision adopted on 15 November 2010; No. 344/2008, *A.M.A. v. Switzerland*, decision adopted on 12 November 2010; and No. 692/1996, *A.R.J. v. Australia*, Views adopted on 28 July 1997, para. 6.6.

[15] See, for example, *X. v. Denmark* (footnote 14 above), para. 9.2; and communication No. 1833/2008, *X. v. Sweden*, Views adopted on 1 November 2011, para. 5.18.

[16] See communications No. 1763/2008, *Pillai et al. v. Canada*, Views adopted on 25 March 2011, para. 11.4; and No. 1957/2010, *Lin v. Australia*, Views adopted on 21 March 2013, para. 9.3.

of the panel of the Board that examined the original asylum request also considered the author's request for reopening the case in the light of additional information submitted by the author and concluded that such information was not significantly new with respect to that initially available when the Board had dismissed his asylum request. While the author disagrees with the conclusions reached by the State party's authorities, the Committee considers that the author has failed to submit convincing arguments that such conclusions were manifestly erroneous or denial of justice or clearly arbitrary.

11.5 With regard to the author's conversion to Christianity, the Committee notes his submission that he started to take an interest in Christianity when he arrived in Denmark; that he converted to Christianity in 2013 and was baptized on 16 June 2013; that since he has lived openly as a Christian, Afghan failed asylum seekers have harassed him at the Ellebaek asylum centre; that he informed his mother and friends in Afghanistan about his conversion; that his conversion puts him at risk of persecution if returned to Afghanistan; and that the Afghan authorities would be unable to protect him.

11.6 The Committee also takes note of the State party's argument that the Chair of the panel of the Refugee Appeals Board that examined the author's original asylum request, and subsequently a full new panel of the Board, examined the information provided by the author on his reported conversion to Christianity and found that his conversion had not been genuine and that the author had not rendered probable that he would be at risk of persecution if returned to Afghanistan.

11.7 The Committee notes that the reports cited by the parties[17] and others that had been in the public domain when the Refugee Appeals Board examined the author's asylum request on 15 September 2016[18] indicate that conversion from Islam is considered apostasy in Afghanistan; that under the courts' interpretation of Islamic law it is punishable by death; that if someone converts to another religion from Islam, he or she shall have three days to recant the conversion before being subject to the punishment for apostasy; and that persons perceived as contravening sharia law, including converts from Islam, and persons perceived as contravening the Taliban's interpretation of Islamic principles, norms and values may be in need of international refugee protection on religious grounds, depending on the individual circumstances of the case.

11.8 The Committee considers that when an asylum seeker submits that he or she has converted to another religion after his or her initial asylum request has been dismissed in the country of asylum, it may be reasonable that an in-depth examination of the circumstances of the conversion be carried out by the authorities.[19] The test remains, however, whether, regardless of the sincerity of the conversion, there are substantial grounds for believing that such conversion may have serious adverse consequences in the country of origin so as to create a real risk of irreparable harm such as that contemplated by articles 6 and 7 of the Covenant. Therefore, even when it is found that the reported conversion is not sincere, the authorities should proceed to assess whether, in the circumstances of the case, the asylum seeker's behaviour and activities in connection with or to justify his or her conversion, such as attending a church, being baptized, participating in proselytizing activities, could have serious adverse consequences in the country of origin so as to put him or her at risk of irreparable harm.

11.9 In the present case, the Committee observes that it is not contested that, after starting to attend a Christian church, the author was baptized on 16 June 2013; that he has attended church services and participated in other Christian activities for a period of more than three years; and that, in those settings, he has been perceived as a sincere Christian believer. The Refugee Appeals Board also considered it a fact that he had acquired knowledge of Christianity that was not insignificant. Nevertheless, the Board based its conclusions that the author's conversion was not genuine on the fact that he had not indicated his interest in Christianity before the Danish Immigration Service and the Board in 2012; that he only started to become better acquainted with Christianity in March 2013, after his original

[17] See the Eligibility Guidelines (footnote 5 above), pp. 46-47.

[18] Ibid., pp. 53-56.

[19] See Guidelines on International Protection (footnote 9 above), para. 34.

asylum request had been refused by the Board; and that his statements about the motives for his conversion were general and superficial, especially taking into account the significance of Islam in Afghan society. Subsequently, the Board assessed whether the author could be at serious risk in Afghanistan, regardless of the motives of the conversion. The Board noted that he had answered in a superficial and evasive manner the questions relating to the consequences in Afghanistan for himself and his family in relation to his reported conversion, and found that he had not rendered probable that he would be at risk of persecution in Afghanistan merely owing to his appearance among other persons into a video from an Iranian church in the Netherlands uploaded to YouTube, and to the fact the other Afghan failed asylum seekers in Denmark and a friend in Afghanistan had learned about his conversion. While the author disagrees with the decision of the Refugee Appeals Board, the Committee considers that the author expressed fears that are of general nature and not based on specific facts that would put him at risk in view of his personal circumstances. Moreover, the author has not pointed to any procedural irregularities in the decision-making procedure that would show elements of arbitrariness by the Danish authorities. Accordingly, the Committee cannot conclude that any rights enshrined in the Covenant have been violated in the present case.

12. The Human Rights Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the author's removal to Afghanistan would not violate his rights under articles 6 and 7 of the Covenant.